

EXHIBIT 472

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

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| IN RE: NATIONAL | : | |
| PRESCRIPTION | : | MDL No. 2804 |
| OPIATE LITIGATION | : | |
| | : | Case No. |
| | : | 1:17-MD-2804 |
| THIS DOCUMENT RELATES | : | |
| TO ALL CASES | : | Hon. Dan A. Polster |

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Monday, January 7, 2019

HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
CONFIDENTIALITY REVIEW

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Videotaped deposition of TOM NAMETH, held at
the offices of Cavitch, Familo & Durkin,
1300 East Ninth Street, Cleveland, Ohio, commencing at
9:03 a.m., on the above date, before Carol A. Kirk,
Registered Merit Reporter and Notary Public.

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| <p style="text-align: right;">Page 78</p> <p>1 completed, with the help of some individuals. 2 And I want to just know, are 3 you -- did you assist in preparing these answers 4 in any way? 5 A. No. 6 Q. Okay. And so you weren't 7 contacted and asked to help provide answers to 8 this document; is that fair? 9 A. That's correct. 10 Q. Okay. And I'll just represent to 11 you, this was served on October 29th of 2018. 12 Had you been contacted about this litigation or 13 did you know about this litigation as of that 14 date? 15 A. No. 16 Q. Okay. If you can turn to page 3. 17 This is Interrogatory Number 4. And it says -- 18 I'm going to skip -- I'm not going to read it 19 verbatim but, "Please identify any orders 20 you" -- and that's DDM -- "received that were at 21 any point identified as a possible suspicious 22 order." 23 Do you see that? 24 A. Yes.</p> | <p style="text-align: right;">Page 80</p> <p>1 Q. Okay. And so you were the one who 2 was determining whether those possible -- well, 3 strike that. 4 They weren't really orders, right? 5 They were ordering histories, weren't they, for 6 the prior month? 7 A. Yes. 8 Q. Okay. So you would decide whether 9 the ordering history from the prior month was 10 suspicious, but it being on that report to you 11 would be an indication that it was possibly 12 suspicious, right? 13 A. Correct. 14 Q. Okay. And to the extent that you 15 got a sufficient explanation, then they would -- 16 you'd just say, "Well, check that box. It's not 17 suspicious." Right? 18 A. Right. 19 Q. Okay. When you got that report, 20 did you ever just report that to the DEA, the 21 fact that a store appeared on there and had a 22 larger had than normal ordering history? 23 A. Other than ARCOS? 24 Q. I'm asking if you --</p> |
| <p style="text-align: right;">Page 79</p> <p>1 Q. And if you go down to the response 2 at the bottom, it says "None." 3 Do you see? 4 A. Mm-hmm. 5 Q. Would that be accurate based on 6 your understanding of -- from your role at DDM? 7 A. When you say -- when you throw in 8 the word a "possible" suspicious order, there 9 could have been -- there could have been 10 possible suspicious orders, because then we 11 would have to follow up and determine whether it 12 was suspicious or not. 13 Q. Okay. So depending upon how one 14 would define "possible suspicious order," you'd 15 agree that that could -- may or may not include 16 orders or histories that show up on your 17 12-month rolling report, correct? 18 A. Yes. 19 Q. Okay. And to the extent that you 20 then decided to do due diligence and got an 21 explanation, then potentially those would be not 22 considered suspicious orders at that point, 23 correct? 24 A. Correct.</p> | <p style="text-align: right;">Page 81</p> <p>1 A. We reported to ARCOS but not to 2 that report. 3 Q. Okay. 4 A. Not that report. 5 Q. You didn't fill out -- you didn't 6 specifically report that -- those as possible 7 suspicious orders to the DEA, correct? 8 A. Correct, because they weren't 9 suspicious at that time. 10 Q. Okay. But you would agree that 11 they were possibly suspicious, right? 12 A. They could have been. 13 Q. Okay. Do you know whether the 14 reporting obligation under the Controlled 15 Substances Act requires you to report possible 16 suspicious orders? 17 A. I'm not aware of that. 18 Q. Okay. Do you know what the 19 criteria is that the CSA provides for when you 20 have to report a suspicious order? 21 A. Say again. 22 Q. Do you -- what is the -- do you -- 23 well, strike that. 24 Do you generally know, as you sit</p> |

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| <p style="text-align: right;">Page 82</p> <p>1 here today, what types of orders should be 2 reported to the DEA under the Controlled 3 Substances Act? 4 A. Suspicious orders. 5 Q. Okay. And how would you define a 6 suspicious order? 7 A. One that we could not identify a 8 reason of why it was ordered. 9 Q. Okay. And so my understanding is 10 that you don't believe that the Controlled 11 Substances Act required you to report possible 12 suspicious orders, only suspicious ones, 13 correct? 14 A. Yes. 15 Q. And it was okay that you didn't 16 report an order until after due diligence was 17 done to determine whether it was, in fact, 18 suspicious, correct? 19 A. Yes. 20 Q. Okay. And if that due diligence 21 took a week, it was okay for you to take that 22 time to determine whether the order was 23 suspicious or not before you could report it to 24 the DEA, correct?</p> | <p style="text-align: right;">Page 84</p> <p>1 Interrogatory Number 4, and I think as you aptly 2 pointed out, it includes the words "possible 3 suspicious order," correct? 4 A. Yes. 5 Q. And so with the addition of that 6 word, would you agree that any order that 7 appeared on your 12-month report should probably 8 be listed here in the response? 9 MR. JOHNSON: Objection. 10 A. When you list this as possible 11 suspicious orders, then I guess anything on the 12 report could be provided. 13 Q. Except for the fact maybe that 14 that report didn't actually show specific 15 orders, right, it just showed how much you had 16 ordered in the month? 17 A. Correct. 18 Q. Okay. And so let's look at the 19 information that was requested for each of 20 those. It says, "The date of the suspicious 21 order and the customer's identity and address." 22 Do you see that under a? 23 A. Yes. 24 Q. That -- your report wouldn't</p> |
| <p style="text-align: right;">Page 83</p> <p>1 A. Yes. 2 Q. And that's how you operated at 3 DDM? 4 A. Yes. 5 Q. Okay. Was there ever an instance 6 at DDM where you found a possible suspicious 7 order and you reported it immediately to the 8 DEA? 9 A. No. 10 Q. Was there ever a time when you 11 reported any order as suspicious to the DEA at 12 any time? 13 A. We did not. 14 Q. Okay. That would include you and 15 anyone else; is that fair? 16 A. To my knowledge, yes. 17 Q. Okay. Is that knowledge partially 18 reflective of what you read in those 19 depositions? 20 A. No. I'm just speaking -- I don't 21 recall -- I mean, you know, not that I'm aware 22 of that we ever reported a suspicious order to 23 the DEA. 24 Q. Okay. Okay. So let's go back to</p> | <p style="text-align: right;">Page 85</p> <p>1 actually show the date of the suspicious order, 2 would it? 3 A. No. 4 Q. Okay. It would just show how much 5 was ordered the month -- in that month, right? 6 A. Yes. 7 Q. Okay. And then b, "A description 8 of said order." Would that information be 9 contained in that report? 10 A. Yes. 11 Q. So like how much was ordered -- 12 the -- 13 A. The description being the type of 14 drug that it was. 15 Q. Would that include NDC number? 16 A. Yes. 17 Q. The name of the drug? 18 A. Yes. 19 Q. Where the drug came from, like the 20 manufacturer? 21 A. That would -- that's by the NDC 22 number you would know what manufacturer. 23 Q. Okay. And it would have like 24 quantity and strength?</p> |

Page 154

1 at it, and if we could answer the reason why,
 2 then, you know, we could justify the order.
 3 Q. Okay. But this -- the sentence
 4 above it says that you "shall inform the DEA of
 5 suspicious orders when discovered," right? And
 6 it doesn't say after doing due diligence, does
 7 it?
 8 MR. JOHNSON: Objection.
 9 Q. So you're getting -- is that
 10 right?
 11 A. It doesn't say when.
 12 Q. It says you have to -- well, it
 13 says, "The registrant shall inform the Field
 14 Division Office of the Administration in his
 15 area of suspicious orders when discovered."
 16 A. Right.
 17 Q. Okay. So you're saying that you
 18 didn't discover a suspicious order when you
 19 looked at the report; it was only after you did
 20 due diligence?
 21 A. Correct.
 22 Q. Okay. But you don't see that
 23 leeway in this text here, do you?
 24 A. I'm looking at it. And when it

Page 155

1 says -- are you pointing specifically to orders
 2 of unusual size, that particular aspect of it?
 3 We never identified suspicious orders, so ...
 4 Q. Did you ever have an order of
 5 unusual size?
 6 A. Yes.
 7 Q. Okay. Did you ever report those
 8 orders?
 9 A. Not after we reviewed them, no.
 10 Q. The answer to that question is you
 11 never reported them, right?
 12 A. We never reported a suspicious
 13 order.
 14 Q. Okay. So DDM had unusual --
 15 orders of unusual size, right?
 16 A. In this definition, it doesn't say
 17 what unusual size is. Is unusual size 100
 18 bottles in their definition or not? I mean,
 19 that's very -- you know, you can determine
 20 however you want the number on that. So ...
 21 Q. But DDM defined unusual size to
 22 orders on its own with its report that you
 23 reviewed, didn't it?
 24 A. We looked at higher than normal

Page 156

1 orders.
 2 Q. Okay. That's -- is that
 3 substantially different than an unusually sized
 4 order?
 5 A. That's an interpretation.
 6 Q. I mean, if a pharmacy is ordering
 7 ten bottles a month over 12 months and then they
 8 order twenty, that's unusual isn't it?
 9 A. Can be.
 10 Q. That's the whole point of the
 11 rolling average, right?
 12 A. Can be.
 13 Q. Okay. So DDM defined what an
 14 order of unusual size was through its report,
 15 right? And that was a report that you guys
 16 designed to identify suspicious orders, right?
 17 A. Could be.
 18 Q. Okay. Well, did it or not?
 19 A. Again, I -- you know, according to
 20 this, that was our -- our report listed anything
 21 over 99 percent. I don't know what this unusual
 22 size means. Does it determine -- why didn't
 23 they tell me in the -- in this, why didn't they
 24 say -- give me a percentage and something

Page 157

1 concrete to work with.
 2 Q. All right. Sir, I'm asking you
 3 very specific questions and I'm happy to talk
 4 about this paragraph for the rest of the day if
 5 you want. But if you can listen to my questions
 6 and answer them, we'll be able to get through my
 7 remaining stack of documents a lot faster.
 8 Okay. So I --
 9 MR. JOHNSON: Objection.
 10 Q. Would you agree with me that the
 11 DEA is saying that a suspicious order is one
 12 that includes orders of unusual size. Would you
 13 agree with that?
 14 A. That's what it says.
 15 Q. Okay. And would you agree that
 16 your rolling 12-month report showed orders of
 17 unusual size by definition?
 18 A. I can't agree to that.
 19 Q. You don't agree? So they were
 20 normal? There was nothing abnormal about those
 21 orders?
 22 A. No. They were -- they could have
 23 been larger than normal, but what's unusual --
 24 it's not unusual to me once I find out the

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| <p style="text-align: right;">Page 158</p> <p>1 reasoning.</p> <p>2 Q. Okay. So therein lies what we</p> <p>3 talked about earlier, which is DDM's suspicious</p> <p>4 order monitoring policies turned on your</p> <p>5 subjective belief about what was unusual and</p> <p>6 what wasn't; is that fair?</p> <p>7 A. Possibly.</p> <p>8 Q. DDM didn't define unusual --</p> <p>9 orders of unusual size?</p> <p>10 A. Well, they did when they said</p> <p>11 99 percent.</p> <p>12 Q. Exactly. So anything that showed</p> <p>13 up on that report was an order of unusual size,</p> <p>14 right?</p> <p>15 A. In DDM's mind but not necessarily</p> <p>16 in the DEA's mind.</p> <p>17 Q. Okay. But in DDM's mind, DDM had</p> <p>18 orders of unusual size, correct?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And this says a suspicious</p> <p>21 order is one that is an order of unusual size,</p> <p>22 correct?</p> <p>23 A. In -- in --</p> <p>24 Q. Right?</p> | <p style="text-align: right;">Page 160</p> <p>1 route to go, wouldn't it?</p> <p>2 A. I don't think -- would DEA have</p> <p>3 all the manpower to do all that?</p> <p>4 Q. That's not your problem, though --</p> <p>5 A. I mean I don't know.</p> <p>6 Q. -- is it?</p> <p>7 A. No, but there's no sense of</p> <p>8 instigating a situation when you didn't have to.</p> <p>9 Q. But if you were going to be extra</p> <p>10 safe, if you were going to dot all your Is and</p> <p>11 cross all your Ts, wouldn't it have been easy to</p> <p>12 just submit the orders that showed up on that</p> <p>13 report to the DEA and just --</p> <p>14 A. Easy for me, but why should I make</p> <p>15 it easy for me. You know, I -- my job is to</p> <p>16 determine whether or not that order is</p> <p>17 legitimate or not, okay? And so I'm taking the</p> <p>18 stance that I'm going to do the legwork and not</p> <p>19 throw it at the DEA without even looking at it.</p> <p>20 That, to me, doesn't do service to the DEA.</p> <p>21 Q. Sir, as a pharmacist, you were not</p> <p>22 given the subjective ability to decide what was</p> <p>23 suspicious or not under the regulations,</p> <p>24 wouldn't you agree?</p> |
| <p style="text-align: right;">Page 159</p> <p>1 A. That's what it says.</p> <p>2 Q. Okay. And DDM had orders of</p> <p>3 unusual size and you knew about them when you</p> <p>4 saw them, right?</p> <p>5 We're almost there.</p> <p>6 A. It was only unusual if we didn't</p> <p>7 have an answer for it.</p> <p>8 Q. Okay. I'll go around this</p> <p>9 merry-go-round with you all day.</p> <p>10 All right. You've agreed with me</p> <p>11 that DDM had orders of unusual size and they</p> <p>12 showed up on your 12-month rolling report,</p> <p>13 right?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And you saw those, right?</p> <p>16 A. Mm-hmm.</p> <p>17 Q. And you didn't report them, right?</p> <p>18 A. Right.</p> <p>19 Q. Okay. What would have been the</p> <p>20 harm in reporting those orders?</p> <p>21 A. Well, in our opinion, that --</p> <p>22 there's no sense of calling the DEA in when</p> <p>23 there was no necessary need to.</p> <p>24 Q. But that would have been the safe</p> | <p style="text-align: right;">Page 161</p> <p>1 MR. JOHNSON: Objection.</p> <p>2 A. Yes.</p> <p>3 Q. Okay. So this is a pretty hard</p> <p>4 and fast requirement to identify and report</p> <p>5 suspicious orders, isn't it?</p> <p>6 MR. JOHNSON: Objection.</p> <p>7 A. It doesn't specify specifics.</p> <p>8 Q. Okay. We've been down that road,</p> <p>9 so I'm not going to go down that road again.</p> <p>10 But it would have been easy for</p> <p>11 you to just take your report that you got every</p> <p>12 month and just send it on to the DEA, right?</p> <p>13 A. I could have, but I don't think</p> <p>14 that would be -- it would be unverifiable</p> <p>15 numbers.</p> <p>16 Q. Okay. But you didn't do that,</p> <p>17 right?</p> <p>18 A. No.</p> <p>19 Q. Okay. The next paragraph says,</p> <p>20 "It bears emphasis that the foregoing reporting</p> <p>21 requirement is in addition to, and not in lieu</p> <p>22 of, the general requirement under 21 U.S.C.</p> <p>23 823(e) that a distributor maintain effective</p> <p>24 controls against diversion."</p> |